

OPINION NO. 222

The chairman of a state board asked us whether a certain member of his board might participate in certain matters without violating the conflict of interests section of the ethics law.

The chairman informed us that the board member was an officer of a certain corporation. This corporation was a supplier of a material to certain local companies, who, in turn, sold their product to companies regulated by the board in question.

In accordance with Rule 4.1 of the Rules and Regulations of the State Ethics Commission, the board member was given an opportunity to review the facts submitted by the board chairman and to present his view of the factual circumstances. The board member indicated that about 75 per cent of his corporation's business was in sales of a certain material. Approximately 5 per cent out of this 75 per cent was business with local companies who processed the material further and then sold their product to the companies regulated by the board. He also indicated that the regulated industry in Hawaii bought most of its requirements of the processed material directly from the mainland.

The board member also stated that there were several other suppliers of the material which his company sold in Hawaii. These other companies supplied the material to local companies who, in turn, sold their product to the regulated companies in the State. He further stated that his company sold the material to several local companies who sold their product to the companies regulated by his board.

HRS §84-14(a) states:

No employee shall take any official action directly affecting ... [a] business or other undertaking in which he has a substantial financial interest

Based on the facts that both the chairman and the board member presented to us, we held that the ethics law did not prohibit the board member from participating in the matters in question. We believed that the board member did not have a substantial financial interest in the regulated industry. We further believed that the matters in question did not have a direct effect on the board member's company. We emphasized that our opinion was limited to the present facts. We said that if the facts should change in the future (e.g., the percentage of the board member's company's business with the local companies who sold their product to the regulated companies should substantially increase), the chairman or the board member should seek another advisory opinion.

We expressed appreciation to the board chairman for his concern for ethical matters within his province.

Dated: Honolulu, Hawaii, July 7, 1975.

STATE ETHICS COMMISSION
Gwendolyn B. Bailey, Vice Chairman
Audrey P. Bliss, Commissioner
Paul C.T. Loo, Commissioner

Note: Chairman Vernon F.L. Char disqualified himself from consideration and preparation of this opinion. Commissioner I.B. Peterson was excused from the meeting at which this opinion was considered.